SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1918.

No. 914.

MARK EISNER, AS COLLECTOR OF UNITED STATES INTERNAL REVENUE FOR THE THIRD DISTRICT OF THE STATE OF NEW YORK, PLAINTIFF IN ERROR,

vs.

MYRTLE H. MACOMBER.

IN ERROR TO THE DISTRICT COURT OF THE UNITED STATES FOR THE SOUTHERN DISTRICT OF NEW YORK.

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1 UNITED STATES OF AMERICA, *ss:*

The President of the United States of America to the judges of the District Court of the United States for the Southern District of New York, greeting:

Because in the record and proceedings, as also in the rendition of the judgment of a plea which is in the district court before some of you, between Myrtle H. Macomber, as plaintiff, against Mark Eisner, as collector of United States internal revenue for the third district of the State of New York, a manifest error hath happened, to the great damage of Mark Eisner, defendant as aforesaid, we being willing that such error, if any hath been, should be duly corrected and full and speedy justice done to the parties aforesaid in this behalf, do command you, if judgment be therein given, that then under your seal, distinctly and openly, you send the record and proceedings aforesaid, with all things concerning the same, to the Supreme Court of the United States, in the city of Washington, District of Columbia, together with this writ, so that you have the same at the said place before the Supreme Court aforesaid on the 5th day of April, 1919, that the record and proceedings aforesaid being inspected, the said Supreme Court of the United States may cause further to be done therein to correct that error what of right and according to the law and custom of the United States ought to be done.

Witness the Honorable Edward D. White, Chief Justice of
2 the United States, this 7th day of March, in the year of our Lord one thousand nine hundred and nineteen and of the independence of the United States the one hundred and forty-third.

[SEAL.] ALEX. GILCHRIST, Jr.,
Clerk of the District Court of the United States of America for the Southern District of New York.

The foregoing writ is hereby allowed.

JNO. C. KNOX,
U. S. District Judge.

UNITED STATES OF AMERICA,
Southern District of New York, ss:

I, Alex. Gilchrist, jr., clerk of the District Court of the United States of America for the Southern District of New York, in the Second Circuit, by virtue of the foregoing writ of error, and in obedience thereto, do hereby certify that the following pages, numbered from four to twenty-four, inclusive, contain a true and complete transcript of the record and proceedings had in said court in the cause of Mark Eisner, as collector of United States internal revenue for the third district of the State of New York, plaintiff in error, against Myrtle H. Macomber, defendant in error, as the same remain of record and on file in said office.

In testimony whereof I have caused the seal of the said court to be hereunto affixed at the city of New York, in the Southern District of New York, in the Second Circuit, this twelfth day of March, in

the year of our Lord one thousand nine hundred and nineteen, and of the Independence of the United States the one hundred and forty-third.

[SEAL.] ALEX. GILCHRIST, Jr., *Clerk.*

3 L 19—19. Form No. 336. U. S. District Court, Southern District of New York. Myrtle H. Macomber, plaintiff, versus Mark Eisner, as collector of United States internal revenue for the third district of New York, defendant. *Writ of error.* Francis G. Caffey, United States attorney, attorney for defendant. Due service of a copy of the within is hereby admitted.

4 United States District Court for the Southern District of New York.

MYRTLE H. MACOMBER *against* MARK EISNER, COLLECTOR OF INTERNAL Revenue for the Third District of New York.	L 19–19.

To the above-named defendant:

You are hereby summoned to answer the complaint in this action, and to serve a copy of your answer on the plaintiff's attorney within twenty days after the service of this summons, exclusive of the day of service; and in case of your failure to appear or answer judgment will be taken against you by default for the relief demanded in the complaint.

Witness, the Hon. Learned Hand, judge of the District Court of the United States for the Southern District of New York, at the city of New York, this 30th day of July, in the year one thousand nine hundred and eighteen.

[SEAL.] ALEX. GILCHRIST, Jr., *Clerk.*

MURRAY, PRENTICE & HOWARD, *Plaintiff's Attorneys,*
Office and post-office address, 37 Wall St., Borough of Manhattan, New York City.

5 *Complaint.*

United States District Court, Southern District of New York.

MYRTLE H. MACOMBER, PLAINTIFF, *against* MARK EISNER, COLLECTOR OF UNITED States Internal Revenue for the Third District of the State of New York, defendant.	

The plaintiff for her complaint herein, by Murray, Prentice & Howland, her attorneys, alleges as follows:

1. That at all the times hereinafter mentioned the plaintiff was and now is a citizen of the State of New York and a resident of the third internal revenue district of the State of New York.

2. That at all the times hereinafter mentioned the defendant was and now is the collector of United States internal revenue for the third district of the State of New York.

3. That the Standard Oil Company of California is and was during the year 1916 a corporation organized and existing under and by virtue of the laws of the State of California. That on January 1st, 1916, said corporation had an authorized capital stock of one hundred million dollars ($100,000,000) divided into one million (1,000,000) shares of the nominal or par value of one hundred dollars ($100) each. That the authorized capital stock of said corporation then issued and outstanding was the sum of forty-nine million six hundred eighty-six thousand six hundred and fifty-six dollars ($49,686,656).

6 That on said date the said corporation had surplus and undivided profits which were invested in its plant, property, and business, and which were required for the purposes of the said corporation, amounting to the sum of forty-four million eight hundred and fifty-two thousand two hundred sixty-three and 2/100 dollars ($44,852,263.02). That of said surplus and undivided profits the sum of twenty million three hundred and fifty-three thousand sixty-eight and 34/100 dollars ($20,353,068.34) had been earned by said corporation prior to March 1st, 1913, and the balance of said surplus and undivided profits had been earned by said corporation subsequent to that date.

4. That at a meeting of the board of directors of said Standard Oil Company of California held on the 16th day of January, 1916, it was decided, for the purpose of readjusting the capitalization of said corporation, to issue additional shares of stock constituting an additional stock dividend of fifty per cent from the authorized capital stock of said company and to transfer from surplus account to capital stock account an amount equivalent to said stock dividend. That said board of directors duly adopted a resolution declaring said stock dividend, which said resolution was as follows:

"Whereas the issued capital stock of this corporation consists of 496,866–545614/983383 shares of a par value of one hundred dollars ($100) each; and

Whereas the unissued capital stock of this corporation consists of 503,133–437769/983383 shares; and

7 Whereas the net assets of this corporation exceed the par value of the issued capital stock by far more than twenty-five million dollars ($25,000,000), and the surplus of this corporation is greatly in excess of twenty-five million dollars ($25,000,000); and

Whereas said surplus has been derived from earnings of the corporation and profits of the business;

Now, therefore, be it

Resolved, That subject to the approval of the State authorities, a stock dividend of 248,133–272807/983383 shares of the capital stock of this corporation of the par value of one hundred dollars ($100) each be, and the same is, hereby declared payable on April 15, 1916, or as soon thereafter as delivery can be made, to the stockholders of this corporation of record on its books at close of business March 4, 1916, in the proportion of one-half of a share for each share of stock then so owned and held by each of said stockholders as shown by said books.

Resolved further, That the president and secretary of this corporation are hereby authorized and empowered to take whatever steps they may deem necessary to carry this resolution into effect and to notify the stockholders of the purport thereof."

8 5. That thereafter in accordance with said resolution the officers of the Standard Oil Company of California transferred from surplus account to capital-stock account, the sum of twenty-four million eight hundred forty-three thousand three hundred twenty-seven and 74/100 dollars ($24,843,327.74), being the equivalent of said stock dividend, and on the 15th day of April, 1916, issued to the stockholders of record of the said corporation on the 4th day of March, 1916, additional shares of stock in the proportion of one share of new stock for each two shares of old stock held by each stockholder on said date.

6. That on the 4th day of March, 1916, the plaintiff was the owner of two thousand two hundred (2,200) shares of stock of the Standard Oil Company of California, and on the 15th day of April, 1916, in accordance with the declaration of said corporation, the plaintiff received from the Standard Oil Company of California certificates representing additional shares of stock amounting to one thousand one hundred (1,100) shares.

7. That because of the issue of said additional shares constituting said stock dividend and of the increase in the number of parts in which the ownership of the assets of the corporation, as represented by its capital stock, was divided, the asset or book value of each share of stock, representing an equal aliquot part of the said total assets of said company, was proportionately decreased. That the number of shares of stock owned by each stockholder was increased by fifty per cent and at the same time the market value of each share was correspondingly decreased; that for the month prior to the declaration of said stock dividend and immedately thereafter sales of the stock of said corporation had been made in the open

9 market at a price of from three hundred sixty dollars ($360) to three hundred eighty-two dollars ($382) a share, and that during the period while the books were closed for said stock dividend and thereafter sales of stock were made in the open market at from two hundred thirty-four dollars ($234) to two hundred sixty-eight dollars ($268) per share. That the value of the capital stock owned

by each stockholder, including the plaintiff's shares, was substantially unchanged by reason of the declaration of said stock dividend and the issue of additional shares of stock.

8. That by resolution of the board of directors of the Standard Oil Company of California the amount charged from surplus account to the credit of the said capital account of the said corporation equivalent to the par value of said additional shares of stock constituting said stock dividend, being the sum of twenty-four million eight hundred forty-three thousand three hundred twenty-seven and 74/100 dollars ($24,843,327.74), was charged against surplus and undivided profits of said corporation earned prior to March 1st, 1913, in the sum of twenty million three hundred fifty-three thousand sixty-eight and 34/100 dollars ($20,353,068.34), and the balance of said sum, being the sum of four million four hundred ninety-thousand two hundred fifty-nine and 40/100 dollars ($4,490,259.40) was charged against the first surplus profits of the said corporation earned after March 1st, 1913. That 18.0743% of said first mentioned amount was charged against surplus and undivided profits earned since March 1st, 1913.

9. That in accordance with the provisions of the income tax law, being title 1 of an act of Congress in effect September 9, 1916, entitled "An act to increase the revenue, and for other purposes," the plaintiff in the year 1917 duly filed her return of income received during the year 1916. That in accordance with the regulations of the Treasury Department the plaintiff under protest included in her income tax return for the year 1916 the sum of nineteen thousand eight hundred seventy-seven dollars ($19,877), being the equivalent of 18.0743% of the par value of said additional shares of stock of the Standard Oil Company of California received by her and constituting said stock dividend, and that on the face of said return plaintiff stated that the same included 18.07% of said stock dividend of the Standard Oil Company of California declared and paid April 15, 1916, being the proportion of the par value of said shares constituting said stock dividend charged against earnings since March 1st, 1913. That at the time said return was filed, plaintiff accompanied the same with a protest in writing against the assessment of any tax on said additional shares of stock received by her constituting said stock dividend, or on any alleged equivalent thereof.

10. That thereafter the defendant, as collector of United States internal revenue for the third district of New York, claiming to act in pursuance of the provisions of title 1 of an act of Congress in effect September 9, 1916, entitled "An act to increase the revenue, and for other purposes," demanded of plaintiff the sum of eight thousand seven hundred twenty and 78/100 dollars ($8,720.78), which defendant claimed to be due and payable by her as an income tax for the year 1916. That included in the sum thus demanded as an income tax was the sum of one thousand three hundred and sixty-seven and

2/100ths dollars as an income tax imposed upon the amount of nineteen thousand eight hundred seventy-seven dollars ($19,877), being the equivalent of 18.0743% of the par value of the said one thousand one hundred (1,100) additional shares received by the plaintiff and constituting said stock dividend declared by the Stanard Oil
11 Company of California. That defendant threatened to enforce the payment of said tax, together with penalties and interest as provided in the act, by distraint and sale of property, and thereupon the plaintiff, solely to avoid the imposition of penalties and interest, and under compulsion, duress, and coercion, paid to the said defendant as such collector, on or about the 22nd day of May, 1917, the sum of eight thousand seven hundred twenty and 78/100 dollars ($8,720.78), of which the sum of one thousand three hundred sixty-seven and 2/100 dollars ($1,367.02) represented the tax imposed on the proportion of the par value of the additional shares constituting said stock dividend charged against earnings since March 1st, 1913, being 18.0743% thereof, but said payment was made under protest, and at the same time plaintiff protested in writing that no tax was due from her on said additional shares constituting said stock dividend and that the defendant was without authority to exact and collect the same, and that the plaintiff paid the same under duress and compulsion.

11. Thereafter the plaintiff duly took an appeal to the Commissioner of Internal Revenue and demanded repayment and refund of the said tax in accordance with the law and the regulations and rules of the Treasury Department. Said appeal was duly perfected and filed with the Commissioner of Internal Revenue on or about the 14th day of February, 1918, and that said appeal has been disallowed by said Commissioner of Internal Revenue.

12. That said additional shares constituting said stock dividend of the Standard Oil Company of California, as well in the proportion thereof charged against earnings and profits accrued since March 1st, 1913, as the proportion thereof charged against prior earnings and profits, did not constitute taxable income under the said act of Congress. That no tax was due or has become due thereon to the United States Government or to the defendant as col-
12 lector of United States internal revenue for the third district of New York, and the sum of one thousand three hundred sixty-seven and 2/100 dollars ($1,367.02), being the amount of tax paid thereon, was illegally and without warrant or authority at law demanded and collected by the defendant from the plaintiff.

13. That the act of Congress under which said sum of one thousand three hundred sixty-seven and 2/100 dollars ($1,367.02) was levied on said additional shares constituting said stock dividend as aforesaid, and its payment compelled, to wit, title 1 of an act of Congress in effect September 9, 1916, entitled "An act to increase the revenue, and for other purposes," is invalid and void, in so far as the same may be asserted to confer power to make such levy on said

additional shares constituting said stock dividend or to compel such payment, because in violation of the provisions of article 1, section 2, clause 3, of the Constitution of the United States, to the effect that "direct taxes shall be apportioned among the several States," and of the provisions of article 1, section 9, clause 4 thereof, to the effect that "no capitation or other direct tax shall be laid unless in proportion to the census or enumeration hereinbefore directed to be taken," and that said additional shares issued by the plaintiff as aforesaid, and constituting said stock dividend, did not in whole or in any part or proportion thereof constitute income and were not subject to taxation as income within the meaning of the provisions of the sixteenth amendment to the said Constitution, to the effect that "Congress shall have power to lay and collect taxes on incomes from whatever source derived without apportionment among the several States, and without regard to any census or enumeration"; and this plaintiff hereby draws in question the constitutionality of the said act of Congress and of all provisions thereof assumed or asserted to authorize the said levy and the enforcement thereof.

13 14. That no part of said sum of one thousand three hundred sixty-seven and 2/100 dollars ($1,367.02) has been repaid to the plaintiff, and the whole amount thereof with interest thereon from the 22nd day of May, 1917, remains due and owing from this defendant to the plaintiff.

15. That this is a suit of a civil nature at common law which arises under the Constitution and laws of the United States, and under the laws of the United States providing for internal revenue.

Wherefore, plaintiff demands judgment against the defendant for the sum of one thousand three hundred sixty-seven and 2/100 dollars ($1,367.02) with interest thereon from the 22nd day of May, 1917, together with the costs and disbursements of this action.

MURRAY, PRENTICE & HOWLAND,
Attorneys for Plaintiff, 37 Wall Street,
Manhattan, New York City.

STATE OF NEW YORK,
County of New York, ss:

Myrtle H. Macomber, being duly sworn, deposes and says that she is the plaintiff herein; that she has read the foregoing complaint and knows the contents thereof; and that the same is true of her own knowledge, except as to the matters therein stated to be alleged on information and belief, and that as to those matters she believes it to be true.

MYRTLE H. MACOMBER.

Sworn to before me this 15th day of June, 1918.

[SEAL.] ROBERT H. STRAHAN,
Notary Public #454, New York County.

(Endorsed:) U. S. District Court, S. D. of N. Y. Filed Aug. 3, 1918.

14 *Demurrer.*

United States District Court, Southern District of New York.

MYRTLE H. MACOMBER, PLAINTIFF,
against
MARK EISNER, COLLECTOR OF UNITED States internal revenue for the third district of the State of New York, defendant.

The defendant herein, by his attorney, Francis G. Caffey, United States attorney for the Southern District of New York, appearing herein, respectfully shows to this court and alleges:

The defendant demurs to the alleged cause of action set forth in the complaint upon the grounds:

1. That it appears upon the face thereof that the complaint does not state facts sufficient to constitute a cause of action.

Wherefore the defendant demands judgment that the complaint be dismissed together with the costs and disbursements of this action.

FRANCIS G. CAFFEY,
United States Attorney for the Southern District of New York, Attorney for the Defendant, Office and Post Office Address, Old Post Office Building, Borough of Manhattan, New York City.

15 Vincent H. Rothwell, assistant United States attorney, certifies that he has the within-entitled action in charge and that the above demurrer is not interposed for purpose of delay, and that he verily believes that the complaint is bad in law and that a determination of the question raised by the demurrer will terminate the litigation and so tend to expedite the disposition of the case.

VINCENT H. ROTHWELL,
Asst. U. S. Attorney.

(Endorsed:) U. S. District Court, S. D. of N. Y. Filed Oct. 11, 1918.

16 United States District Court, Southern District of New York.

MYRTLE H. MACOMBER,
vs.
MARK EISNER, COLLECTOR, ETC.

Memorandum.

Demurrer overruled on the authority of Towne *v.* Eisner, 245 U. S., 418; see also Peabody *v.* Eisner, 247 U. S., 347.

January 23, 1919.

JULIUS M. MAYER,
District Judge.

Filed Jan. 23, 1919.

17 *Order overruling demurrer with leave to answer.*

At a stated term of the United States District Court for the Southern District of New York, held in the United States Courthouse and Post Office Building, Borough of Manhattan, city of New York, on the 28th day of January, 1919.

Present: Honorable Julius M. Mayer, United States District Judge.

MYRTLE H. MACOMBER, PLAINTIFF,
against
MARK EISNER, AS COLLECTOR OF UNITED States internal revenue for the third district of the State of New York, defendant.

The issue of law raised by the demurrer of the defendant to the complaint of the plaintiff herein having duly come on to be heard by this court at a stated term thereof, and after hearing counsel for the defendant in support of said demurrer and counsel for the plaintiff in opposition thereto, and due deliberation having been had thereon, and the court having handed down its opinion overruling said demurrer,

Now, upon motion of Messrs. Murray, Prentice & Howland, attorneys for the plaintiff, it is

Ordered, that said demurrer be, and the same hereby is in all respects overruled, and it is further.

Ordered, that the defendant shall have twenty days from
18 the date of service of a copy of the order to serve and file the answer to the complainant herein.

JULIUS M. MAYER,
District Judge.

(Endorsed:) U. S. District Court, S. D. of N. Y. Filed Jan. 28, 1919.

19 *Order overruling demurrer.*

At a stated term of the United States District Court for the Southern District of New York, held in the United States Courthouse and Post Office Building, Borough of Manhattan, city of New York, on the 19th day of February, 1919.

Present: Honorable Julius M. Mayer, United States District Judge.

MYRTLE H. MACOMBER, PLAINTIFF,
against
MARK EISNER, AS COLLECTOR OF UNITED States internal revenue for the third district of the State of New York, defendant.

The issue of law raised by the demurrer of the defendant to the complaint of the plaintiff herein having duly come on to be heard by this court at a stated term thereof, and after hearing counsel for the

defendant in support of said demurrer and counsel for the plaintiff in opposition thereto, and due deliberation having been had thereon, and the court having handed down its opinion overruling said demurrer,

Now, upon motion of Messrs. Murray, Prentice & Howland, attorneys for the plaintiff, it is

Ordered, that said demurrer be, and the same hereby is in all respects overruled, and it further

20 Ordered, that the plaintiff have final judgment against the defendant on the merits for the relief demanded in the complaint herein, with costs to be taxed.

The court hereby certifies that there was probable cause for the acts of the defendant as collector of United States internal revenue for the third district of the State of New York.

JULIUS M. MAYER,
U. S. District Judge.

It is hereby stipulated by and between the attorneys for the respective parties herein that the shares of stock which were the subject of the stock dividend declared by the Standard Oil Company of California on January 16, 1916, as described in the complaint herein were assessed by the Commissioner of Internal Revenue at the par value thereof.

Dated New York, February 17, 1919.

MURRAY, PRENTICE & HOWLAND,
Attorneys for Plaintiff.
FRANCIS G. CAFFEY,
United States Attorney for Defendant.

(Endorsed:) U. S. District Court, S. D. of N. Y. Filed Feb. 19, 1919.

21 *Judgment.*

United States District Court, Southern District of New York.

MYRTLE H. MACOMBER, PLAINTIFF,
against
MARK EISNER, AS COLLECTOR OF UNITED States internal revenue for the third district of the State of New York, defendant.

The issues of law raised by the demurrer of the defendant to the complaint of the plaintiff herein having duly come on to be heard before the Honorable Julius M. Mayer, United States district judge, at a stated term of this court, and after hearing counsel for the defendant in support of said demurrer, and counsel for the plaintiff in opposition thereto, and due deliberation having been had thereon, and the court having handed down its opinion overruling said demurrer, and an order having been duly entered on the 19th day of February, 1919, overruling the said demurrer and ordering that the

plaintiff have final judgment against the defendant on the merits for the relief demanded in the complaint, and the court having certified that there was probable cause for the acts of the defendant as collector of internal revenue for the third district of New York, and the plaintiff's costs having been taxed in the sum of twenty-four & 22/100 dollars—

Now, on motion of Messrs. Murray, Prentice & Howland, attorneys for the plaintiff herein, it is hereby

Ordered and adjudged that the plaintiff, Myrtle H. Macomber, have final judgment against the defendant, Mark Eisner, as collector of United States internal revenue for the third district of the State of New York, for the sum of one thousand three hundred sixty-seven and 2/100 dollars ($1,367.02), with interest from the 22nd day of May, 1917, amounting to $143.53, together with the sum of twenty-four & 22/100 dollars costs as taxed, amounting in all to $1,534 77/100, and that execution issue therefor.

Judgment signed this 26th day of February, 1919.

ALEX. GILCHRIST, Jr.,
Clerk.

(Endorsed:) U. S. District Court, S. D. of N. Y. Filed Feb. 26, 1919, 11 a. m.

Assignment of errors.

United States District Court, Southern District of New York.

MYRTLE H. MACOMBER, PLAINTIFF, *against* MARK EISNER, AS COLLECTOR OF UNITED States internal revenue for the third district of the State of New York, defendant.	L 19–19.

Now comes Mark Eisner, as collector of United States internal revenue for the third district of the State of New York, the defendant herein, and assigns error in the decision of the United States District Court for the Southern District of New York, as follows:

First. The said court erred in overruling the demurrer interposed by the defendant to the bill of complaint herein and directing that final judgment should be entered in favor of the plaintiff.

Second. The court erred in holding that Section I of the act of Congress approved September 8th, 1916, is unconstitutional and void in that said section imposes a tax upon stock dividends, which are not income but capital.

Third. The court erred in construing and applying the decision of Towne against Eisner, 245 U. S., 418, and in overruling the demurrer upon any existing decisions of the Supreme Court of the United States or of any other court.

Fourth. The court erred in holding that the bill of complaint herein states a cause of action.

Fifth. The court erred in ordering that final judgment be entered upon the demurrer even if the bill of complaint does state a cause of action.

Wherefore the defendant prays that for the errors aforesaid the judgment be reversed with costs and that final judgment be entered in favor of the defendant.

Dated, New York, March 6, 1919.

FRANCIS G. CAFFEY,
United States Attorney for the Southern District of New York, Attorney for the Defendant.

(Endorsed:) U. S. District Court, S. D. of N. Y. Filed Mar. 7, 1919.

25 *Citation on appeal.*

UNITED STATES OF AMERICA, *ss:*

To Myrtle H. Macomber, greeting:

You are hereby cited and admonished to be and appear before the Supreme Court of the United States, to be holden at the city of Washington, District of Columbia, within thirty days from the date hereof, pursuant to a writ of error filed in the clerk's office of the District Court of the United States for the Southern District of New York, wherein Mark Eisner, as collector of United States internal revenue for the third district of the State of New York, is plaintiff in error, and you are defendant in error, to show cause, if any there be, why the judgment in said writ of error mentioned should not be corrected and speedy justice should not be done in that behalf.

Given under my hand at the borough of Manhattan, in the city of New York, in the district and circuit above named, this 7th day of March, in the year of our Lord one thousand nine hundred and nineteen, and of the independence of the United States the one hundred and forty-third.

JNO. C. KNOX,
Judge of the District Court of the United States for the Southern District of New York, in the Second Circuit.

26 (Endorsed:) Supreme Court of the United States. L 19-19. Mark Eisner, as collector of United States internal revenue for the third district of the State of New York, plaintiff in error, vs. Myrtle H. Macomber, defendant in error. Citation. Due service of a copy of the within citation is hereby admitted this 8th day of March, 1919. Murray, Prentice & Howland, attorneys for defendant in error.

(Endorsement on cover:) File No. 27000. S. New York, D. C. U. S. Term No. 914. Mark Eisner, as collector of United States internal revenue for the third district of the State of New York, plaintiff in error, vs. Myrtle H. Macomber. Filed March 13th, 1919. File No. 27000.